

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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April 17, 2002

Opinion No. 02-050

The City Paper as Newspaper of General Circulation for Publication of Official Notices

QUESTION

Does The City Paper qualify as a “newspaper” and/or “newspaper of general circulation” for the purposes of publication of official notices, excluding the publication of official election notices, as defined by the Election Code found in Tenn. Code Ann. §§ 2-1-101, *et seq.*?

OPINION

Yes. The City Paper is a newspaper of general circulation for purposes of publishing non-election official notices in Davidson County.

ANALYSIS

This opinion has considered, as background, information supplied with the request as to the relevant attributes of The City Paper, a free daily newspaper published in Nashville, Tennessee.

With the exception of a definition in the Election Code, Tenn. Code Ann. §§ 2-1-101, *et seq.*, the terms “newspaper” and “newspaper of general circulation” are not defined in any of the state statutes that require publication of official notices in a “newspaper” or “newspaper of general circulation.” *See generally* Op. Tenn. Atty. Gen. U93-112 (November 30, 1993) and Op. Tenn. Atty. Gen. U92-99 (September 1, 1992). The Election Code does define the term “newspaper of general circulation” and lists among a number of factors the requirement that the publication be issued for a definite price. Tenn. Code Ann. § 2-1-104(a)(13). Because The City Paper is a free publication, it does not comply with the Election Code’s definition of a “newspaper of general circulation.” *See, e.g.*, Op. Tenn. Atty. Gen. 00-160 (October 17, 2000) and other opinions cited therein. Thus, the paper is not suitable for the publication of notices required under the Election Code.

With respect to statutes in which the terms “newspaper” or “newspaper of general circulation” are not defined, three criteria have been established in order for a publication to satisfy the requirements of various statutes. *See* Op. Tenn. Atty. Gen. 00-160. First, the publication should be available in all parts of the county. Second, it should be published at least weekly. Third, it should contain news of general

interest to the public. These criteria are satisfied by The City Paper for Davidson County.

According to information supplied with the opinion request, as well as shown in issues of The City Paper available to this Office, The City Paper is published in Nashville, Tennessee, and is distributed five days per week, Monday through Friday, with Friday being a weekend edition. The information supplied with the opinion request states that The City Paper is available in over 500 boxes and racks throughout Davidson County and selected areas of Williamson County, and that home delivery and requested office and retail delivery also occurs, resulting in stated circulation of over 40,000 readers per day. The publication therefore complies with the first two requirements noted above at least as to Nashville and Davidson County. Further, The City Paper appears to meet the third requirement in that it covers news of general interest to the public. The City Paper is in the form of a newspaper with 40 or more daily pages. It features a variety of local, state, national and international news, sports coverage of local, college and professional sports teams, business and financial news, weather, current events, entertainment, opinions, letters and editorials. Based on the information supplied to this Office, it is our opinion that The City Paper qualifies as a “newspaper of general circulation” and/or “newspaper” for the purposes of publication of statutorily required notices, other than those required under the Election Code.

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